

NEBRASKA DEPARTMENT  
OF INSURANCE

JUL 8 1999

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF  
APPLICATION FOR LICENSE FOR  
HAMPTON H. HUTTO

) FINDINGS OF FACT,  
) CONCLUSIONS OF LAW, AND  
) RECOMMENDED ORDER  
)  
) CAUSE NO. A-1380  
)

This matter came on for hearing on the 1st day of July, 1999, before Linda R. Sanchez-Masi, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The matter arises out of a denial of an application for a resident insurance agent license. The Nebraska Department of Insurance ("Department") was represented by its attorney, Eric Dunning. Hampton H. Hutto ("Applicant") was present. Applicant was represented by Gale D. Tessendorf, his attorney. The witnesses present were David Kneival, Division Manager for Waddell & Reed, Inc., in Norfolk, NE, and Beverly Creager, Nebraska Department of Insurance Licensing Administrator. The proceedings were tape recorded by Peg Jasa, a licensed Notary Public. Mr. Kneival testified on behalf of Applicant. Mrs. Creager testified on behalf of the Department. Evidence and testimony were presented at the hearing by Applicant and the Department and the matter was taken under advisement. The hearing officer hereby makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance agents and brokers.

2. On or about May 20, 1999, Applicant applied for a resident insurance agent license as evidenced by Exhibit #10. Applicant's address as listed on the application is 1109 S. 13<sup>th</sup> Street, Suite 304, Norfolk, NE 68701.

3. On or about June 2, 1999, Beverly Creager, Licensing Administrator for the Nebraska Department of Insurance, notified Applicant that his application for an insurance agent's license was denied based upon Neb.Rev.Stat. §44-4026(4) and (5), as evidenced by Exhibit #9.

4. On or about June 21, 1999, Applicant requested a hearing to appeal the Department's denial for an insurance agent's license as evidenced by Exhibit #11.

5. Applicant testified that he is to be employed with Waddell & Reed, Inc., in Norfolk, NE as a sales representative.

6. On or about October 21, 1985, Applicant was convicted of burglary, a felony, as evidenced by Exhibit #8.

7. Applicant testified that he was 18 years old at the time of the felony conviction.

8. On or about November 25, 1985, Applicant was sentenced to two (2) years probation and sixty (60) days in the Lincoln County Jail, with ten (10) days credit, as evidenced by Exhibit #8.

9. On or about September 28, 1987, Applicant was found guilty of Violation of Probation Terms as evidenced by Exhibit #8.

10. On or about January 25, 1988, due to Violation of Probation Terms, Applicant was sentenced to ninety (90) days in the Lincoln County Jail with sixty-two (62) days credit, and his probation was found to have been terminated unsatisfactorily, as evidenced by Exhibit #8.

11. On or about September 28, 1987, Applicant was convicted of two felonies, attempted burglary and attempted arson, as evidenced by Exhibit #8.

12. On or about January 25, 1988, Applicant was sentenced to serve fourteen (14) months in the Lincoln County Jail as evidenced by Exhibit #8.

13. Applicant testified that since the commission of the aforementioned felonies, he has had no subsequent convictions.

14. Applicant testified that he has been gainfully employed since his release from incarceration and that he has owned a business.

15. Mr. Kneival, Division Manager of Waddell & Reed, Inc. of Norfolk, NE ("Waddell & Reed"), testified on behalf of Applicant, and stated that Waddell & Reed will provide employment to Applicant.

16. Applicant testified that in the years, during and subsequent to the felony convictions, he has volunteered for local civic and social organizations and events.

17. The granting of a license by the Department is based upon the truth and veracity of the facts disclosed in the application, the testimony given and the evidence introduced into the record at the hearing.

#### CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control and discretion over the licensing of insurance agents and brokers to sell insurance in the State of Nebraska pursuant to Neb.Rev.Stat. §44-101.01 and §44-4001 et seq.

2. The Department has personal jurisdiction over Applicant.

3. The convictions constitute sufficient basis for denying a license to Applicant pursuant to Neb.Rev.Stat. §44-4026(4) and (5).

#### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended to the Director of Insurance that the Director approve Applicant's request for licensing as an insurance agent. It is further recommended that the Director of the Department of Insurance grant consent to Applicant to

engage in the business of insurance as contemplated by the *Violent Crime Control and Law Enforcement Act of 1994*, 18 U.S.C. §1033(e)(2).

Dated this 8<sup>th</sup> day of July, 1999.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
HEARING OFFICER

#### CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order, providing for the approval of Applicant's request for an insurance agent's license and the granting of consent to Applicant to engage in the business of insurance as contemplated by 18 U.S.C. §1033(e)(2), is adopted as the official and final Order of this Department In The Matter of the Denial of Application For License For Hampton H. Hutto, Cause No. A-1380.

Dated this 8<sup>th</sup> day of July, 1999.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
L. TIM WAGNER  
Director of Insurance

### CERTIFICATE OF SERVICE

I, hereby, certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Applicant's attorney, Gale D. Tessendorf, by mailing a copy to him at 2362 26<sup>th</sup> Avenue, P. O. Box 925, Columbus, NE 68602-0925 on this 8<sup>th</sup> day of July, 1999.

Carol L. Lillik

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